

REMARKS

Claims 1-10 are now currently pending in the application. Although the Applicant respectfully traverses all of the rejections raised in the Office Action, Applicant has amended claims 1 and 6 to more fully define and distinguish the invention. Support for the amendments can be found in all FIGURES. No new matter has been added. Pursuant to 37 C.F.R. § 1.116, Applicant respectfully requests reconsideration of the application.

Rejection of Claims 1, 2 and 5 under 35 U.S.C. 102(b)

The Office Action rejected claims 1, 2 and 5 under 35 U.S.C. 102(b) as being anticipated by McClure '377. Applicant traverses this ground of rejection.

With respect to claim 1, Applicant respectfully submits that McClure '377 fails to teach all of the currently amended claim limitations.

In order for a rejection to be proper under 35 U.S.C. § 102(b), the reference or references must teach each and every claim element. Appellant respectfully notes that the McClure '377 fails to teach every claim element of claim 1 as currently amended. Specifically, McClure '377 fails to disclose the corner third panels being formed "such that said corner third panel cut-out is cut from an edge of the corner third panel that lies substantially parallel to a line formed by the connection of the corner third panel to the corner second panel, said corner third panel cut-out also being cut from an edge of the corner third panel that lies substantially perpendicular to a line formed by the connection of the corner third panel to the corner second panel." At a minimum, Applicant respectfully submits that this limitation is not disclosed by the cited art. McClure '377 does not teach, suggest or even disclose even a "corner third panel cut-out," or any equivalent structure, let alone a third panel cutout formed "...such that said corner third panel cut-out is cut from an edge of the corner third panel that lies substantially parallel to a line formed by the connection of the corner third panel to the corner second panel, said corner third panel cut-out also being cut from an edge of the corner third panel that lies substantially perpendicular to a line formed by the connection of the corner third panel to the corner second panel." McClure '377 teaches no such cutout.

The corner third panel cut out of the present invention is arranged such that when the container is in the closed state, "the top panel flaps 36 rest upon a top edge of the corner end panel cutout 38 (FIGURE 6). In this manner, the corner reinforcing assembly 31 helps support the top panels 26, thereby increasing the container's crushing strength." (pg 3: lns 32-35). McClure '377 provides no such teaching. As such, claim 1 is not anticipated by the cite reference. Applicant respectfully requests removal of this ground of rejection.

With respect to claims 2 and 5, claims 2 and 5 are dependent upon claim 1 and are therefore allowable for the same reasons that make claim 1 allowable.

Rejection of Claims 1, 2 5-7, and 9 under 35 U.S.C. 102(b)

The Office Action rejected claims 1, 2 5-7, and 9 under 35 U.S.C. 102(b) as being anticipated by McClure '020. Applicant traverses this ground of rejection.

With respect to claim 1, Applicant respectfully submits that McClure '020 fails to teach all of the currently amended claim limitations.

With respect to claim 1, the deficiencies of McClure '377 are discussed in detail above and are incorporated herein for brevity's sake. McClure '020, like McClure '377 discussed above, fails to describe, teach, or even suggest the limitation that the corner third panel cut-out is formed "...such that said corner third panel cut-out is cut from an edge of the corner third panel that lies substantially parallel to a line formed by the connection of the corner third panel to the corner second panel, said corner third panel cut-out also being cut from an edge of the corner third panel that lies substantially perpendicular to a line formed by the connection of the corner third panel to the corner second panel." Quite to the contrary, cutouts 78 and 66 (as best seen in FIGURE 4 of McClure '020) are in the middle of their respective panels. As such, the benefits of the present design, as discussed above, can not be attained by the McClure '020 reference, nor are they taught, disclosed or even suggested. Consequently, as the cited reference fails to teach all the limitation of amended claim 1, claim 1 is not anticipated by the reference.

With respect to claims 2, and 5, they are dependent upon claim 1 and are therefore allowable for the same reasons that make claim 1 allowable.

With respect to claim 6, Applicant respectfully submits that McClure '377 fails to teach all of the currently amended claim limitations.

With respect to claim 6, applicant respectfully tenders that claim 6 includes the claim limitation that the corner third panel cut-out is formed "...such that said corner third panel cut-out is cut from an edge of the corner third panel that lies substantially parallel to a line formed by the connection of the corner third panel to the corner second panel, said corner third panel cut-out also being cut from an edge of the corner third panel that lies substantially perpendicular to a line formed by the connection of the corner third panel to the corner second panel." In the interest of brevity, Applicant respectfully incorporates the arguments presented above regarding this limitation. Additionally, it will be appreciated that the relative heights of the end panel vs. the depth of the adjacent corner third panel cutout provides significant advantages over the cited art by providing increased support and stability for the top panel flaps 36 when the container top is closed. As this limitation is present in claim 6 and is not taught by McClure '020, this claim is not anticipated by the cited art.

With respect to claims 7 and 9, these are dependent upon claim 6 and are therefore allowable for the same reasons that make claim 6 allowable. As such, applicant respectfully requests removal of this ground of rejection.

Rejection of Claims 1, 2, 5-7 and 9 under 35 U.S.C. 102(b)

The Office Action rejected claims 1, 2 5-7, and 9 under 35 U.S.C. 102(b) as being anticipated by either Muise '224 or Osborne '710. Applicant traverses this ground of rejection.

With respect to claim 1, Applicant respectfully submits that both Muise '224 and Osborne '710 fail to teach all of the currently amended claim limitations.

With respect to claim 1, Muise '224 and Osborne '710, like McClure '377 discussed above, fails to describe, teach, or even suggest the limitation that the corner third panel cut-out is formed "...such that said corner third panel cut-out is cut from an edge of the corner third panel that lies substantially parallel to a line formed by the connection of the corner third panel to the corner second panel, said corner third panel cut-out also being cut from an

edge of the corner third panel that lies substantially perpendicular to a line formed by the connection of the corner third panel to the corner second panel .” Quite to the contrary, cutouts found in both Muise ‘224 and Osborne ‘710 (48 and 38, respectively) are in the middle of their respective panels and are not formed in the two free edges of the corner third panel. Rather, the cut-outs in both references are only in one free edge, and are formed to keep their respective panels from interfering with the handhold cutout. As such, the benefits of the present design, as discussed above, can not be attained by either the Muise ‘224 or Osborne ‘710 reference, nor are they taught or disclosed. Consequently, as the cited reference fails to teach all the limitation of amended claim 1, claim 1 is not anticipated by the reference.

With respect to claims 2, and 5, they are dependent upon claim 1 and are therefore allowable for the same reasons that make claim 1 allowable.

With respect to claim 6, Applicant respectfully submits that both Muise ‘224 and Osborne ‘710 fail to teach all of the currently amended claim limitations.

With respect to claim 6, applicant respectfully tenders that claim 6 includes the claim limitation that the corner third panel cut-out is formed “...such that said corner third panel cut-out is cut from an edge of the corner third panel that lies substantially parallel to a line formed by the connection of the corner third panel to the corner second panel, said corner third panel cut-out also being cut from an edge of the corner third panel that lies substantially perpendicular to a line formed by the connection of the corner third panel to the corner second panel.” In the interest of brevity, Applicant respectfully incorporates the arguments presented above regarding this limitation herein. Additionally, it will be appreciated that the relative heights of the end panel vs. the depth of the adjacent corner third panel cutout provides significant advantages over the cited art by providing increased support and stability for the top panel flaps 36 when the container top is closed. As this limitation is present in claim 6 and is not taught by either the Muise ‘224 or Osborne ‘710 reference, the claim is not anticipated. Applicant respectfully request removal of this ground of rejection.


With respect to claims 7 and 9, these are dependent upon claim 6 and are therefore allowable for the same reasons that make claim 6 allowable. As such, applicant respectfully requests removal of this ground of rejection.

CONCLUSION

Based upon the above remarks, Applicant respectfully requests reconsideration of the application and its early allowance. The Examiner is invited to contact the undersigned should direct communication on this matter be deemed helpful to facilitate progression of the case.

RESPECTFULLY SUBMITTED,

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